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Filing date: **08/31/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92050685
Party	Defendant Executive Development Architects LLC
Correspondence Address	Leigh Augustine Sherman & Howard LLC 633 Seventeenth Street, Suite 3000 Denver, CO 80202 UNITED STATES laugustine@sah.com
Submission	Other Motions/Papers
Filer's Name	David N. Schachter
Filer's e-mail	dschachter@sah.com
Signature	/David N. Schachter/
Date	08/31/2009
Attachments	Motion to Accept Rule 26 Disclosures.PDF ( 38 pages )(1136530 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark  
Registration No. 3468426  
Cancellation No. 92050685  
Registered: July 15, 2008  
Mark: IGNITING BUSINESS  
International Class: 35

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RENEE SHATANOFF,

Petitioner

v.

EXECUTIVE DEVELOPMENT  
ARCHITECTS LLC,

Registrant.

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**REGISTRANT'S MOTION TO ACCEPT RULE 26 DISCLOSURES  
AS PREVIOUSLY FILED  
WITH REGISTRANT'S MOTION FOR SUMMARY JUDGMENT**

Executive Development Architects, LLC ("Registrant") hereby files this Registrant's Motion to Accept Rule 26 Disclosures as Previously Filed with Registrant's Motion for Summary Judgment (this "Motion").

**I. INTRODUCTION**

This Motion is filed concurrently with Registrant's Rule 26 Disclosures, which are contemporaneously being mailed to counsel for Petitioner (Exhibit A), and in response to the Board's ruling of August 20, 2009 concerning the above matter.

On June 27, 2008, Petitioner filed application number 77507190, for the mark IGNITING BUSINESS WITH A SOCIAL BEAT (the "Application"). The record shows that the Application was issued a Non-Final Office Action on September 29, 2008, and a Final Refusal on December 14, 2008, because, in the words of the Examining Attorney, "Registration was refused under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), because the mark for which registration is sought so resembles the mark shown in U.S. Registration No. 3468426 [Registrant's IGNITING BUSINESS mark ("Registrant's Mark")] as to be likely, when used in connection with the identified services, as to cause confusion, or to cause mistake, or to deceive." See Final Office Action for Application 77507190, December 14, 2008.

Despite being told twice by the Examining Attorney twice that the mark was confusingly similar to Registrant's IGNITING BUSINESS mark, Petitioner nonetheless filed, on March 17, 2009, a Petition for Partial Cancellation of Registrant's Mark. Trial dates were set, with initial disclosures being due on June 25, 2009. Neither party made such disclosures by the dates required.

## **II. ARGUMENT**

### **A. The Parties Tacitly Mutually Agreed to Forego Filing Initial Disclosures.**

Prior to the initial disclosure deadline, neither Registrant nor Petitioner served the other party with any written request for initial disclosures. Either party could have filed a motion to compel initial disclosures with the Board, however, neither party filed such any such motion. Registrant respectfully requests the Board to note that in the August 1, 2007 Notice of Final

Rulemaking, 72 Fed. Reg. 42242, 42246, the Board specifically contemplated that parties may agree to "forego disclosures and agree to utilize only traditional discovery devices." *See Boston Red Sox Baseball Club Limited Partnership v. Harry F. Chaveriat III*, Opposition No. 91182083, mailed June 23, 2008 (Opinion is a precedent of the TTAB). As such, it is logical and reasonable for the Board to conclude that both parties mutually agreed to forego initial disclosures.

**B. Initial Disclosures Were Incorporated Within Registrant's Motion to Dismiss.**

Despite mutually foregoing disclosures, Registrant voluntarily produced its disclosures, incorporated by reference with Registrant's Motion for Summary Judgment. This Motion for Summary Judgment was filed May 22, 2009, more than a month prior to the deadline for initial disclosures. Registrant respectfully requests that the Board review its initial disclosures and its Motion for Summary Judgment, as it will find the exact same (1) documents and (2) parties to testify with information related to this matter, in both documents. As such, Registrant's initial disclosures were incorporated by reference and served upon Petitioner with the Motion for Summary Judgment. Albeit not labeled as such, Registrant's Motion for Summary Judgment included its initial disclosures, and therefore, Registrant did, in fact, submit its initial disclosures to Petitioner.

**C. The Relevant Facts Were Available to the Board Even Without the Motion for Summary Judgment or the Initial Disclosures.**

There are facts, including filing date, filing basis, priority date, publication date, applicant's name, and other statements contained within in an application, that the Board must accept as true. *See Compagnie Gervais Danone v. Precision Formulations, LLC*, Opposition No.,

91179589, mailing date January 5, 2009 (opinion is a precedent of the TTAB). Additionally, the Board may look to Office records for such facts to determine if a party's allegations are well-pleaded. *See Id.* Registrant respectfully requests that the Board look at the history of application number 77507190, for the mark IGNITING BUSINESS WITH A SOCIAL BEAT, and specifically at the Office Action dated September 29, 2008 and the Final Office Action dated December 14, 2008, as the Examining attorney stated, and restated, that, when used in connection with the identified services, Petitioner's IGNITING BUSINESS WITH A SOCIAL BEAT mark was likely to cause confusion, or to cause mistake, or to deceive, with Registrant's IGNITING BUSINESS mark.

**D. Granting the instant motion will cause no prejudice to Petitioner and will serve the interests of justice and expediency.**

In any event, if such disclosure requirement was not expressly waived, Registrant inadvertently neglected to confirm or neglect such fact in preparation of the present Motion. In addition, Registrant notes that Petitioner, in responding to the Motion, failed to mention any issue regarding the timing of filing of initial disclosures, nor has Petitioner made any initial disclosures itself. Thus, there will be no prejudice to Petitioner by granting the requested relief, given that the required information is still being provided to Petitioner within the time allowed, all information therein was already known to Petitioner and thus would not alter Petitioner's response to motion for summary judgment, and by denying motion it would simply result in Registrant filing the disclosures and then re-filing the motion for summary judgment, which would unduly tax the Board's resources for no logical reason.

As ordered by the Board, Registrant has served it's Initial Disclosures on Petitioner, and

attaches a copy herewith along with an executed Proof of Service.

### **III. CONCLUSION**

In light of the above statements, Registrant urges the Board to see this case for what it is: a frivolous and harassing lawsuit, forcing Registrant to needlessly spend time and money to defend its registration, when, even if a proposed amendment to Registrant's services were accepted, it would, in no way alleviate the fact that a likelihood of confusion would still pervade Petitioner's and Registrant's marks.

Registrant urges the Board to grant the motion to acknowledge the filing and service of the Initial Disclosures on Petitioner, and to allow the present pending Motion for Summary Judgment, which Petitioner has fully responded to, to proceed to ruling.

For the reasons stated above, Petitioner's Petition for Partial Cancellation should be denied in its entirety, and this Motion should be granted.

Respectfully submitted:

Dated: August 31, 2009

A handwritten signature in black ink, appearing to read 'David N. Schachter', written over a horizontal line.

David N. Schachter  
Sherman & Howard L.L.C.  
633 Seventeenth Street, Suite 3000  
Denver, Colorado 80202  
Phone: (303) 299-8385  
Fax: (303) 298-0940

Attorney for Registrant  
EXECUTIVE DEVELOPMENT ARCHITECTS,  
LLC

**CERTIFICATE OF SERVICE**

I, David N. Schachter, hereby certify that on this 31st day of August, 2009, the foregoing **REGISTRANT'S MOTION TO ACCEPT RULE 26 DISCLOSURES AS PREVIOUSLY FILED WITH REGISTRANT'S MOTION FOR SUMMARY JUDGMENT** were served upon Petitioner's counsel of record by depositing same with the U.S. Postal Service, first-class postage prepaid, addressed to Petitioner's counsel address of record as follows:

Strategic Legal Counseling  
Attn: Louis F. Teran  
1055 East Colorado Blvd.  
Suite 500  
Pasadena, CA 91106

A handwritten signature in black ink, appearing to read 'David N. Schachter', written over a horizontal line.

David N. Schachter

**EXHIBIT A  
TO  
MOTION TO ACCEPT RULE 26 DISCLOSURES**



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

In the Matter of Trademark  
Registration No. 3468426  
Cancellation No. 92050685  
Registered: July 15, 2008  
Mark: IGNITING BUSINESS  
International Class: 35

---

RENEE SHATANOFF,	)	
	)	
	)	
Petitioner	)	
	)	
v.	)	
	)	
EXECUTIVE DEVELOPMENT	)	
ARCHITECTS LLC,	)	
	)	
Registrant.	)	

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**EXECUTIVE DEVELOPMENT ARCHITECTS, LLC'S RULE 26(a)(1) DISCLOSURES**

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Executive Development Architects, LLC ("Registrant"), through its undersigned counsel, submits the following disclosures pursuant to F.R.C.P. 26(a)(1). These disclosures are based on the information now known and reasonably available to Registrant. Registrant reserves the right to supplement these disclosures should it learn that in some material respect the information disclosed is incomplete. Registrant also reserves the right to assert any privileges or protection it may have (including, but not limited to, the attorney-client and work product privileges) in connection with the testimony from any witness listed below or in the production of any documents in the categories described below.

**A. INDIVIDUALS LIKELY TO HAVE DISCOVERABLE INFORMATION**

1. Lisa Niederman, c/o Sherman & Howard, L.L.C., President and founder of Executive Development Architects, LLC, with an address of 1317 South Vine Street, Denver, Colorado 80210. Ms. Niederman is a party in this action, and may have information regarding all disputed matters.

2. Renee Shatanoff, and all employees, independent contractors, officers, and agents of Renee Shatanoff that may have information regarding all disputed matters, including but not limited to, the IGNITING BUSINESS WITH A SOCIAL BEAT trademark and the IGNITING

BUSINESS WITH A SOCIAL BEAT trademark application.

**B. DOCUMENTS REGISTRANT MAY USE TO SUPPORT ITS CLAIMS OR DEFENSES AND IN THE POSSESSION, CUSTODY, OR CONTROL OF Registrant**

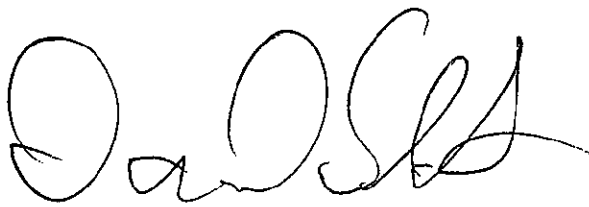
Registrant may use the following documents or categories of documents in support of its claims and defenses. The identified documents are attached.

1. Declaration of Lisa Niederman dated May 21, 2009.
2. Contract between Executive Development Architects, LLC and client dated September 24, 2004 (Attachment 1).
3. Contract between Executive Development Architects, LLC and client dated June 24, 2005 (Attachment 2).
4. Contract between Executive Development Architects, LLC and business associate dated December 8, 2008 (Attachment 3).
5. Copy of Executive Development Architects, LLC business card (Attachment 4).
6. Printout of Executive Development Architects, LLC website, from various dates, including May 4, 2009 (Attachments 5 and 6).
7. Past and current promotional materials and handouts from Executive Development Architects, LLC (Attachments 7, 8, and 9).
8. Past and current seminar materials from Executive Development Architects, LLC (Attachment 10).

**C. DAMAGES**

Executive Development Architects seeks no affirmative relief other than dismissal and attorneys fees.

Dated: August 31, 2009

A handwritten signature in black ink, appearing to read 'D. Schachter', with a horizontal line underneath.

***David N. Schachter***

SHERMAN & HOWARD, L.L.C.

633 Seventeenth Street, Suite 3000

Denver, Colorado 80202

Telephone: (303) 299-8385

Fax: (303) 298-0940

Email: [dschachter@sah.com](mailto:dschachter@sah.com)

Attorneys for Executive Development Architects,  
LLC

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark  
Registration No. 3468426  
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RENEE SHATANOFF,	)
	)
Petitioner,	)
	)
v.	)
	)
EXECUTIVE DEVELOPMENT	)
ARCHITECTS LLC,	)
	)
Registrant.	)
	)

**DECLARATION OF LISA NIEDERMAN**

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I, Lisa Niederman, hereby declare as follows:

1. I am the President and founder of Executive Development Architects LLC. I have served in this capacity since February 25, 1998. I make this Declaration on behalf of Executive Development Architects LLC regarding the Motion for Summary Judgment filed in the above-captioned matter. I make the following statements based on my personal knowledge.

2. The primary place of business for Executive Development Architects LLC is 1317 South Vine Street, Denver, Colorado 80210.

3. I am responsible for overseeing all aspects of Executive Development Architects LLC, including defining and executing the business vision, mission, business strategies and

goals. Also, I am responsible for strategy and execution of sales, marketing, programs and product/service development and delivery to clients, and all business administration duties.

4. Executive Development Architects, LLC consults, advises and trains executives, business owners, entrepreneurs and their teams, individuals, business entities, municipalities, and professional associations regarding ways to improve, increase and develop their respective businesses through creating new business cultures; Executive Development Architects, LLC also consults, analyzes and improves current organization and management systems as well as individual business performance; finally, Executive Development Architects, LLC creates strategic alliances between its clients and charitable organizations.

5. The Executive Development Architects LLC promotional effort within the business community is centered upon profit and nonprofit businesses, professionals, as well as industry and professional associations.

6. The targeted customers of Executive Development Architects services are individuals, executives, entrepreneurs, business owners, teams, for-profit and non-profit businesses, municipalities, and professional associations.

7. The Attachments to this Declaration are as follows:

- Attachment 1 demonstrates actual use of the mark IGNITING BUSINESS on a contract signed by a client and dated September 20, 2004;
- Attachment 2 demonstrates actual use of the mark IGNITING BUSINESS on a contract signed by a client and dated June 27, 2005;
- Attachment 3 demonstrates actual use of the mark IGNITING BUSINESS on a contract signed by a client and dated December 8, 2008;

- Attachment 4 is a current, true and accurate copy of Registrant's business card;
- Attachments 5 and 6 are printouts of different web pages on which the mark is used on Registrant's website, domain name www.performancevelocity.com, on May 4, 2009;
- Attachments 7, 8, and 9 are Registrant's current promotional materials and handouts; and
- Attachment 10 shows Registrant's current seminar materials.

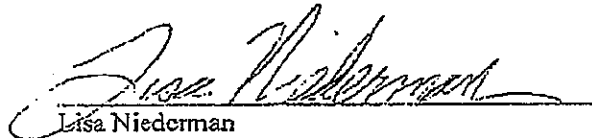
8. I understand that the Petitioner, Renee Shatanoff, asserts that confusion is not likely because she perceives there to be differences between the marks IGNITING BUSINESS and IGNITING BUSINESS WITH A SOCIAL BEAT, and she perceives there to be negligible differences between the services associated with the two aforementioned marks, as my services are "business consulting services" and her services are "Consulting services for individual entrepreneurs for the development of business through positive media exposure of their proactive involvement in charitable organizations; Business consultation relating to development of a service oriented business model with a focus on charitable contributions." Nonetheless, I respectfully disagree with Petitioner's position.

9. For the foregoing reasons, I believe the Petition for Partial Cancellation should be denied, as there would clearly be a likelihood of confusion between my IGNITING BUSINESS mark and Petitioner's IGNITING BUSINESS WITH A SOCIAL BEAT mark.

longstone  
F: 303.298.0940

10. I declare under penalty of perjury under the laws of the United States of America  
that the foregoing is true and correct.

Executed at Denver, CO on May 21, 2009.



Lisa Niederman  
President and Founder  
Executive Development Architects, LLC

**Attachment 1:** Actual use of the mark IGNITING BUSINESS on a contract dated September 20, 2004.



**Performance Velocity™**  
Igniting Business™

**Continuation Coaching**

**Registration**

Mr. \_\_\_\_\_  
Mr./Ms. \_\_\_\_\_ First Name \_\_\_\_\_ Last Name \_\_\_\_\_  
\_\_\_\_\_  
Address \_\_\_\_\_ City \_\_\_\_\_ State New York Zip 10965  
\_\_\_\_\_  
Work Phone \_\_\_\_\_ Home Phone \_\_\_\_\_  
\_\_\_\_\_  
Email address \_\_\_\_\_ Fax number \_\_\_\_\_

**Continuation Coaching**

~~\$495~~ - 4 sessions - 30 minute sessions

✓ ~~\$495~~ 4 sessions  
(Special pricing for preferred customer)

\_\_\_\_\_  
Name on Credit Card

\_\_\_\_\_  
Credit Card (Visa/ Master Card)

\_\_\_\_\_  
Card Number

\_\_\_\_\_  
Expiration Date

\_\_\_\_\_  
Signature

Date 9/20/04

Please fax signed form to:

Performance Velocity™  
Fax: 303-744-2464 or  
303-279-1416

*Performance Velocity™ instructs executive, entrepreneurs and professionals to direct thoughts and attitudes to achieve business results. We are fully committed to your success.*

**Attachment 2:** Actual use of the mark IGNITING BUSINESS on a contract dated June 27, 2005.

FROM : [REDACTED]  
JUN 27 05 09:52P

FAX NO. : [REDACTED]  
LISA HIGHER

JUN 28 2005 08:17AM P1



**Performance Velocity™**  
*igniting business.*

Please sign and date below and fax to:

Performance Velocity LLC  
Fax: 303.733.1617

I have read the foregoing statements, understand them fully, and will participate to the best of my ability. I am ready to begin the successful journey!

Signature

[REDACTED SIGNATURE]

Date

6/27/05

1317 South Vine Street, Denver, CO 80210 Tel: 303.744.2464 Fax: 303.733.1617  
[www.performancevelocity.com](http://www.performancevelocity.com)

**Attachment 3:** Actual use of the mark IGNITING BUSINESS on a contract dated  
December 8, 2008.



**Performance Velocity™**  
*igniting business.*

### Referral Agreement

This Agreement is entered into to protect certain confidential information which may be disclosed by Performance Velocity LLC with a business address at 1317 South Vine Street, Denver, Colorado USA 80210 to [REDACTED] with an address at [REDACTED] ("Recipient").

1. **Confidential Information.** "Confidential information" shall mean any and all non-public or proprietary information relating to Performance Velocity business. Examples of Confidential Information include (but are not limited to): trade secrets, business plans, any information regarding customers, prospective customers, clients, business contacts, prospective and executed contracts, marketing and/or sales plans, or any other plans and proposals used by Performance Velocity in the course of its business, information regarding technology, strategy, products in development, and any information regarding Performance Velocity's present or future business plans, financial information, or any intellectual property, whether any of the foregoing is embodied in hard copy, computer-readable form, or otherwise. Any other information that is not included in the above list may be designated as Confidential Information by being marked as confidential or proprietary (or words of similar import) at the time of disclosure, or disclosed in any other manner if identified as confidential or proprietary at the time of disclosure.

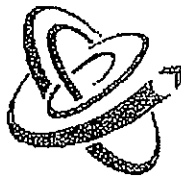
Confidential Information shall not, however, include any information which Recipient can establish (i) was publicly known and made generally available in the public domain prior to the time of disclosure to Recipient by Disclosing Party; (ii) becomes publicly known and made generally available after disclosure to Recipient by Disclosing Party through no action or inaction of Recipient; or (iii) is in the possession of Recipient, without confidentiality restrictions, at the time of disclosure by Disclosing Party as shown by Recipient's files and records immediately prior to the time of disclosure.

2. **Period of Protection.** Recipient has a duty to protect the Confidential Information disclosed under this Agreement for a period of five (5) years from the date of disclosure of such information.
3. **Authorized Use and Protection.** Recipient shall use the Confidential Information solely to evaluate a potential consulting, employment or other relationship with Performance Velocity such as strategic alliance. Recipient shall protect the Confidential Information with a reasonable degree of care to prevent unauthorized use, disclosure or publication.
4. **Restrictions.** Recipient (a) shall not disclose the Confidential Information to third parties unless and to the extent authorized by Performance Velocity; and (b) shall not reproduce any such information except as may reasonably be required for the authorized use; and (c) shall only disclose such information as directed by Performance Velocity to potential or actual employees or consultants for purposes of performing the authorized use. Recipient shall inform Performance Velocity of the names and contact information of any potential employee or consultant before Recipient discloses Confidential Information to that person, if Performance Velocity authorized Recipient to do so.
5. **Marketing Materials.** Recipient may only distribute to (prospective), customers Performance Velocity's "Executive On Board", market brochure. Any other market materials such as; e-brochures, e-blasts, sales and seminar presentations must have the written approval by Performance Velocity before distribution to any customer, business organizations and associations.



## Performance Velocity™ *igniting business.*

6. **Referral Fees.** Recipient will receive ~~10~~ % of the project fee, for each referral that Performance Velocity closes business. The referral fee is to be paid to the recipient after Performance Velocity has collected and/or received all monies and fees due at the completion of the project.
7. **No License Granted.** Neither party acquires any intellectual property rights or licenses under this Agreement.
8. **No Warranty.** All Confidential information is provided "as is". Disclosing party makes no warranties, express, implied or otherwise, regarding its accuracy, completeness or performance.
9. **Judicial Orders.** In the event Recipient is directed to disclose Performance Velocity confidential information pursuant to a valid judicial order, such disclosure shall not be deemed to be a breach of this Agreement, provided the Recipient: (a) provides timely notice of such order to Performance Velocity; and (b) cooperates reasonably with Performance Velocity efforts to contest or limit the scope of such order.
10. **Governing Law/Equitable Relief.** This Agreement shall be governed and interpreted in accordance with the laws of the State of Colorado without regard to its conflicts of law provisions. The parties acknowledge that money damages would not be sufficient remedy for any breach of this Agreement and that Performance Velocity shall be entitled to seek equitable relief from Recipient as a remedy for any breach. Equitable remedies shall not be deemed to be exclusive remedies for a breach, but shall be in addition to all other remedies at law or equity available to Performance Velocity.
11. **Miscellaneous.** The parties perform their respective obligations hereunder without charge to the other. The parties do not intend that any agency, partnership or exclusive relationship is created between the parties by this Agreement. Neither party shall assign any rights hereunder. Neither party shall publicly disclose the existence of this Agreement without prior written approval of the other party.
12. **Counterparts; Facsimile Signatures.** This Agreement may be executed in counterparts, each of which (or any combination of which) when signed by all of the parties shall be deemed an original, but all of which when taken together shall constitute but one agreement. Signatures to this document transmitted by facsimile or electronic signature shall be as fully binding as original signatures.
13. **Entire Agreement/Changes.** This Agreement contains the entire understanding of the parties on the subject matter described herein. All additions or modifications to this Agreement must be made in writing and must be signed by an authorized representative of each party.



Performance Velocity™  
igniting business.

In witness whereof, the Parties have executed this Agreement as of the date below.

Performance Velocity

*Lisa Madenich*  
Signature

Lisa Madenich  
Print Name

CEO  
Title

12/11/08  
Date

Recipient

*[Redacted Signature]*  
Signature

[Redacted Name]  
Print Name

CEO  
Title

12/8/08  
Date

**Attachment 4:** Copy of Registrant's business card.





**Performance Velocity™**  
*igniting business.*

Lisa Niederman  
CEO

1317 South Vine Street  
Denver, CO 80210  
303.744.2464 Direct  
lisa@performancevelocity.com  
www.performancevelocity.com

**Attachment 5:** Printout of web page on which the mark is used on Registrant's website,  
domain name [www.performancevelocity.com](http://www.performancevelocity.com), dated May 4, 2009.



Performance Velocity  
Speed to Results™

Executive On-Boarding  
Executive Performance  
Executive Legacy  
Igniting Leadership  
Customized Programs

Home Overview Programs News About Us Links Contact Us 800.774.2464

## News

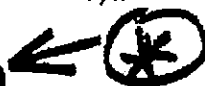
### Colorado Rising Business TV

Colorado Rising host, Larry Nelson discusses with Lisa Niederman, performance management strategies, practices and competencies to accelerate the onboarding and transitions of new leaders, redeployed executives and their teams to deliver quick wins in less than 90 days. Watch

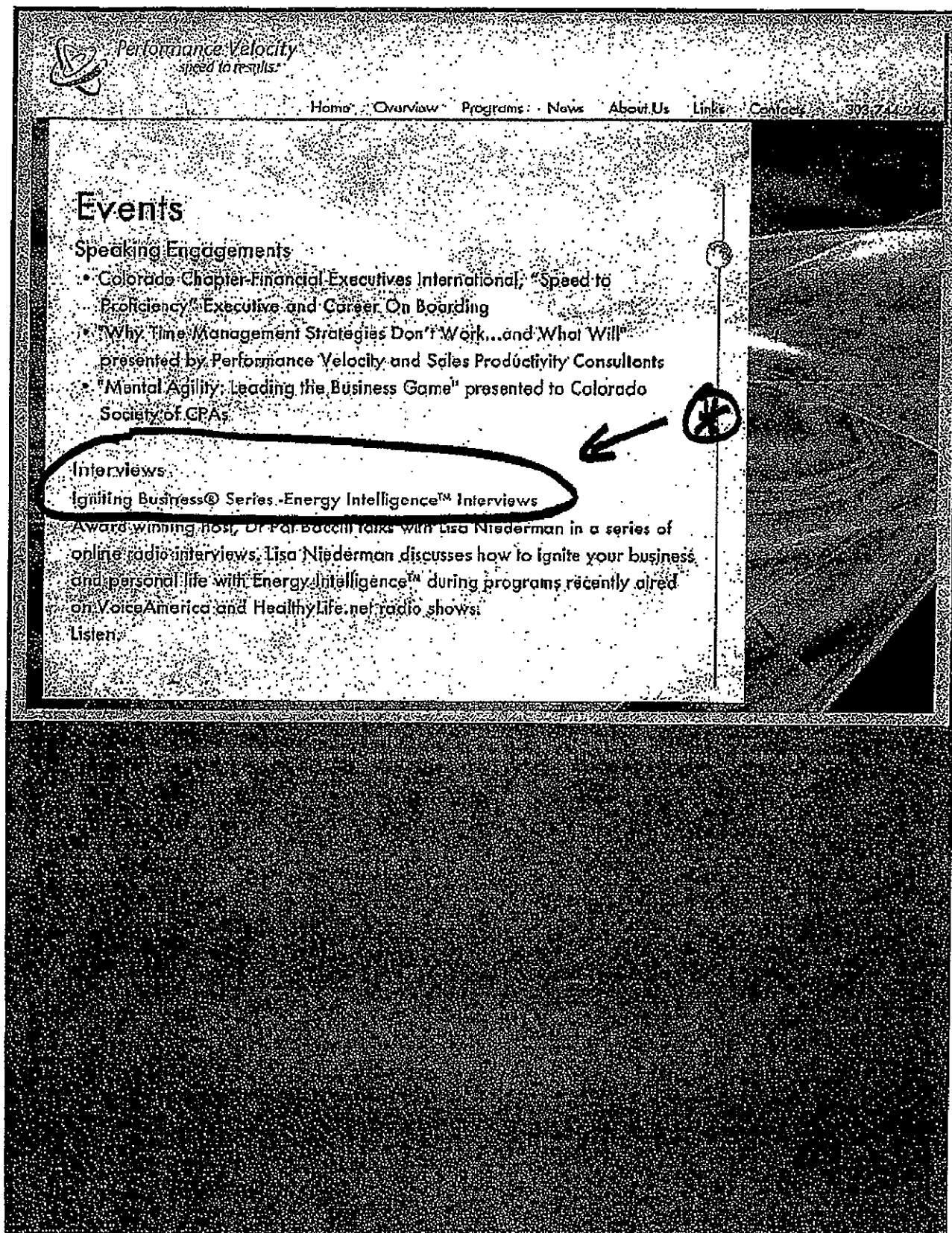
### Igniting Business® Series - Energy Intelligence™ Interviews

Winning host, Dr. Pat Baccili talks with Lisa Niederman in a series of online radio interviews. Lisa Niederman discusses how to ignite your business and personal life with Energy Intelligence™ during programs recently aired on VoiceAmerica and HealthyLife.net radio shows.

Thriving in these rapidly changing times requires strategies that allow critical thinking and decision-making skills to be keen and spot-on. Mastering the



**Attachment 6:** Printout of web page on which the mark is used on Registrant's website,  
domain name [www.performancevelocity.com](http://www.performancevelocity.com), dated May 4, 2009.



The image is a screenshot of the Performance Velocity website. At the top left is the logo, a stylized 'P' and 'V' inside a circle, followed by the text 'Performance Velocity' and 'speed to results.' Below this is a navigation bar with links: Home, Overview, Programs, News, About Us, Links, and Contact. On the right of the navigation bar is the phone number 303-744-2264. The main content area is titled 'Events' and is divided into two sections: 'Speaking Engagements' and 'Interviews'. The 'Speaking Engagements' section lists three items: 'Colorado Chapter Financial Executives International, "Speed to Proficiency" Executive and Career On Boarding', 'Why Time Management Strategies Don't Work...and What Will' presented by Performance Velocity and Sales Productivity Consultants, and 'Mental Agility: Leading the Business Game' presented to Colorado Society of CPAs. The 'Interviews' section is circled in black and contains the text 'Igniting Business® Series - Energy Intelligence™ Interviews'. Below this, it says 'Award winning host, Dr. Pat Bucchi talks with Lisa Niederman in a series of online radio interviews. Lisa Niederman discusses how to ignite your business and personal life with Energy Intelligence™ during programs recently aired on VoiceAmerica and HealthyLife.net radio shows.' and 'Listen:'. To the right of the 'Interviews' section is a large, dark, abstract image. A handwritten arrow points from a circled 'X' mark on the right side of the page to the 'Interviews' section.

Performance Velocity  
speed to results.

Home Overview Programs News About Us Links Contact 303-744-2264

## Events

### Speaking Engagements

- Colorado Chapter Financial Executives International, "Speed to Proficiency" Executive and Career On Boarding
- "Why Time Management Strategies Don't Work...and What Will" presented by Performance Velocity and Sales Productivity Consultants
- "Mental Agility: Leading the Business Game" presented to Colorado Society of CPAs

### Interviews

**Igniting Business® Series - Energy Intelligence™ Interviews**

Award winning host, Dr. Pat Bucchi talks with Lisa Niederman in a series of online radio interviews. Lisa Niederman discusses how to ignite your business and personal life with Energy Intelligence™ during programs recently aired on VoiceAmerica and HealthyLife.net radio shows.

Listen:

**Attachment 7:** Registrant's current promotional materials and handouts.



**Performance Velocity™**  
*igniting business.*

### **A How-To Workshop**

**Mental Agility 2.0 – Best Practices for Business Leaders**

### **The Art and Science of Achieving Exceptional Results**

Mental agility is critical. In today's fast-paced world, we have to think and execute faster than the competition. Yet, complexity, information overload and rapid change place constant obstacles in our path. How do we navigate through these challenges and stay in front of the business game? The key is with our mental agility. This seminar includes the core practices for mental agility that will enable you to:

- use your experience to fine-tune your overall performance
- tap into the 3 fundamentals of mental agility even in the midst of chaos
- rapidly focus, prioritize and complete your immediate tasks and strategic business projects
- make the right decisions rapidly to accomplish goals on time, within budget
- increase your concentration to stay the course in order to complete important projects and still have time to relax and enjoy.

There is limited attendance to ensure participants have opportunities to practice these skills throughout the seminar. Enroll now!

Past seminar participants are saying . . .

*"Way more than expected." – Jim, Account Executive*

*"Thank you for making learning effortless." – Kathy, Director of Sales*

Details: June 19, 3-5 p.m., \$49 by June 12<sup>th</sup>, \$69 after June 12<sup>th</sup>

Also on June 29, 1-3 p.m.; combine with Managing Your Time from the Inside Out - both sessions for only \$88 by June 22<sup>nd</sup>, \$118 after June 22<sup>nd</sup>

**Attachment 8:** Registrant's current promotional materials and handouts.





**Performance Velocity™**  
*igniting business.*

## Upcoming Seminars

**Managing Your Time from the Inside Out**

**Hands-on Seminar for Entrepreneurs and Leaders**

Time is your most important business asset. But when your days are a frenzied schedule of impossible deadlines, missed opportunities and less than satisfactory relationships, time becomes an illusive commodity. The premise of this seminar is simple: you can have an overwhelming list of things to do each day and still be successful, productive, and energized. As Peter Drucker says, "nothing else ... distinguishes effective executives as much as their ... care of time."

Here's what you'll learn in this hands-on seminar:

- How to use a tool you already possess for on-demand results
- Strategies that will capitalize on your time management tools to increase your success and productivity
- How to keep focused even in the middle of chaos
- Methods for maintaining your creativity and productivity levels

Past seminar participants are saying . . .

*"Novel approach' . . . showing how to apply to the everyday business world was very effective. You covered an incredible amount of material . . . Delivered on your promise."*  
— Karen, COO

*"I think the simplicity of the (practices) is what separates Performance Velocity from other time management techniques and strategies. Thanks!"* - David, Business Owner

*"Yesterday's seminar was phenomenal! What I'm truly floored by, however, is how immediately effective the techniques were. . . I'm so glad I took the time to attend!"* - Ashley, Company President

Details: June 29<sup>th</sup>, 3-5 p.m., \$49 by June 22<sup>nd</sup>, \$69 after June 22<sup>nd</sup>;  
combine with Mental Agility 2.0 from 1-3 p.m. for only \$88 by June 22<sup>nd</sup>, \$118  
after June 22<sup>nd</sup>

**Attachment 9:** Registrant's current promotional materials and handouts.



**Performance Velocity™**  
*igniting business.*

## About Performance Velocity®

Some businesses achieve extraordinary success; some are just average. The difference is that exceptional business leaders tap into the power of their "mental agility". Mental Agility is the ability to rapidly change your thinking to achieve your desired results. With an agile mind you can make the right decisions, have precise concentration and focus, and innovate rapidly.

Performance Velocity's programs teach business leaders to increase their mental agility. As the speed of business increases, having an agile mind is essential to stay in front of the competition. With a little bit of practice you'll find that "peak performance on demand" is yours, on call 24/7/365. Like others before you, you'll discover that our practices are Powerful, Proven and People-oriented.

## Advanced Programs

### Principles of Attitude

Our foundational program teaches the mental agility basics:

- Your Life Force Moment™
- Gratitude as a business tool
- Cancel/Clear, a strategy to direct your thoughts
- Laws of Performance

Mental agility is the skill needed by leaders today to keep pace with the speed of business. Principles of Attitude is the definitive system of practices that delivers peak performance on demand for your business.

### Principles of Direction

Practice and application - these words are familiar to serious leaders. Principles of Direction accelerates your success by extending your practice of the basic mental agility tools to 11 specific business areas. New strategies that you will learn include:

- a practice to direct your attitude in crucial business moments
- innovative sales approaches
- a propellant for a productive day
- quick development of innovative and original ideas



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## Executive Team



Lisa Niederman is founder and CEO of Performance Velocity LLC, a firm that specializes in developing executives, leaders and entrepreneurs. Lisa's twenty-five years in business began as an executive in the health care industry and expanded into assessment and coaching of executives, managers and teams in local and national industries. She has extensive experience and knowledge guiding senior management teams and businesses through tumultuous change. Lisa has a keen sensitivity to interweaving the people and management needs to inspire results. Ms. Niederman received her Masters Degree in Psychology and is past President of the ASTD-RMC. Lisa is a Certified Executive Coach with Nightingale-Conant Corp., founding member of the Women's Leadership Institute and she holds a black belt in the martial art of Aikido.



Deb Miller, COO of Performance Velocity, has over 25 years of experience in leadership roles for high technology companies. She is a results-oriented executive, with a broad background that includes expertise in technical management, financial analysis, business plan development, marketing research, and product management. Deb's expertise in leadership has qualified her to build, develop, and mentor high-performing teams and individuals in large, corporate groups as well as small, fast-moving entrepreneurial businesses. Ms. Miller's previous corporate roles include Global Development Manager for Educational Systems at IBM, Director of Development at Sybase, and Vice President of Development at Decisionism, a venture-funded startup. She was the founder and CEO of Pensieve Software, a voice recognition application company. Ms. Miller received a B.S. in Electrical Engineering from Kansas State University in 1977 and an M.B.A. from Colorado State University in 1986. Deb is an avid marathoner and holds a black belt in Tae Kwo.

**Attachment 10:** Registrant's current seminar materials.



**Performance Velocity™**  
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## **3 KEYS TO BEST IN BUSINESS CLASS**

**Your brain can change your business results**

*Facilitated by Performance Velocity*

Your competition knows how your brain works. Do you? Brain research is creating a new operating manual for our brains. In this program, you'll learn to apply 3 aspects of your brain's abilities to increase your personal productivity, drive your business results, and avoid becoming a dinosaur in your industry.

**Benefits:** Upon completion of the program you will be able to:

- Use your goals to automatically filter information coming at you so you have the right information at the right time.
- Turn-around a potentially bad day to avoid making mistakes and damaging business relationships.
- Shift from fatigue to an energized state to create new ideas and execute your 'to-do' list with confidence.
- Gain insight into how your brain works and how to use it to perform at your very best.

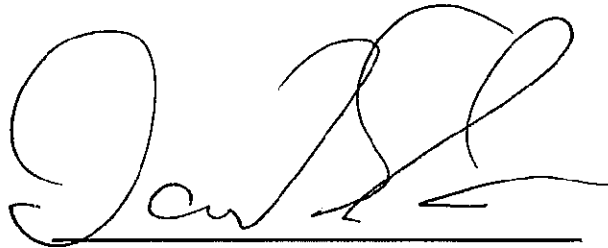
**Agenda:**

- Our mental processes and the effect on business results
- Legacy systems in our minds
- Key 1: Attention
  - Using our internal administrative assistant to eliminate information overload and focus on what matters to our business
- Key 2: Attitude
  - How our brain can drive us, and our business, down the wrong road
- Key 3: Energy
  - Using our mind's energy to learn more and get faster results, even when the body is tired

**CERTIFICATE OF SERVICE**

I hereby certify that on August 31, 2009 I forwarded a copy of **REGISTRANT'S INITIAL DISCLOSURES PURSUANT TO FED.R.CIV.P. 26(a)(1)** by placing same in the United States Mail First Class Postage prepaid to:

*Strategic Legal Counseling*  
*Attn. Louis F. Teran*  
1055 EAST COLORADO BLVD.  
Suite 500  
Pasadena, CA 91106

A handwritten signature in black ink, appearing to read 'David N. Schachter', written over a horizontal line.

***David N. Schachter***  
Sherman & Howard, L.L.C.  
633 Seventeenth Street, Suite 3000  
Denver, Colorado 80202  
Telephone: (303) 299-8385  
Fax: (303) 298-0940  
Email: dschachter@sah.com